IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

SPL. APPL. WRIT No. 260 of 2006

M/S M.A. PRESTRESSED WORKS
V/S
K.U.M.S.(ANAJ) JODHPUR

Mr. MS SINGHVI, for the appellant / petitioner

Mr. N.M.LODHA, AAG, for the respondent

Date of Order : 22.11.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

Heard learned counsel for the parties.

The controversy after arguments got confined to the question as to whether as on the date of issuing initial notice for eviction under the Rajasthan Public Premises (Eviction of Unauthorized Occupants) Act, 1964, the City Magistrate was duly appointed as Estate Officer by notification or not. The learned Additional District Judge has found that no such notification has been shown while Mr. Lodha submits that the notification is very much there, somehow it could not be produced for persual.

In our view, no interference is required to be made in the remand order, and the matter is remanded back to Estate Officer, making it clear, that in case the Krishi Upaj Mandi Samiti, Jodhpur fails to show the existence of

any notification, whereby the authority issuing initial notice for eviction under the Act was duly appointed as a Estate Officer, obviously, the proceeding will fail, and if such notification is shown, the Estate Officer will examine the matter for eviction on merits.

Learned counsel for the appellant submits that the appellant is entitled for benefit of the Scheme floated in the year 2005. We need not say anything in that regard, as it is always open to the authorities concerned to decide, as to whether the appellant is entitled for benefit of Scheme or not.

The appeal is accordingly disposed off.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

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